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Seventy-third year

Provisional

8425th meeting

Friday, 14 December 2018, 3 p.m.

New York

President:	Mr. Adom	(Côte d'Ivoire)
Members:	Bolivia (Plurinational State of)	Mr. Llorentty Soliz
	China	Mr. Wu Haitao
	Equatorial Guinea	Mr. Elé Ela
	Ethiopia	Ms. Guadey
	France	Mrs. Gasri
	Kazakhstan	Mr. Temenov
	Kuwait	Mr. Almunayekh
	Netherlands	Mrs. Gregoire Van Haaren
	Peru	Mr. Duclos
	Poland	Ms. Wronecka
	Russian Federation	Mr. Kuzmin
	Sweden	Ms. Schoulgin Nyoni
	United Kingdom of Great Britain and Northern Ireland	Mrs. Dickson
	United States of America	Mr. Cohen

Agenda

Reports of the Secretary-General on the Sudan and South Sudan

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The meeting was called to order at 3.05 p.m.

Adoption of the agenda

The agenda was adopted.

Reports of the Secretary-General on the Sudan and South Sudan

The President (*spoke in French*): In accordance with rule 37 of the Council's provisional rules of procedure, I invite the representative of the Sudan to participate in this meeting.

In accordance with rule 39 of the Council's provisional rules of procedure, I invite Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, to participate in this meeting.

The Security Council will now begin its consideration of the item on its agenda.

I give the floor to Ms. Bensouda.

Ms. Bensouda: Let me begin by congratulating Côte d'Ivoire on presiding over the Council during the month of December. I wish you continued success in that important role, Sir.

I thank you for the opportunity to present my twenty-eighth report on the situation in Darfur.

Over 13 years ago, on 31 March 2005, at a meeting also attended by the late Secretary-General Kofi Annan (see S/PV.5158), members of the Council came together to adopt resolution 1593 (2005). The Council considered that the situation in the Sudan constituted a threat to international peace and security and decided to refer the situation in Darfur since 1 July 2002 to the Prosecutor of the International Criminal Court.

Following the adoption of resolution 1593 (2005), members of the Council made statements that noted allegations of grave crimes and highlighted the need to ensure accountability and justice in Darfur. The representative of Benin, for example, stressed the need to end the reign of impunity and to ensure credible and timely action against persons charged with atrocities and serious crimes. Some members of the Council also emphasized that the Council's support would be crucial to ensuring an effective outcome to the referral of the Darfur situation to my Office. Since the Darfur situation was referred to my Office, we have consistently striven to establish the truth and to secure justice for victims by pursuing accountability for the alleged perpetrators of crimes under the Rome Statute committed in Darfur.

At the request of my Office, the Pre-Trial Chambers of the Court issued multiple arrest warrants in the Darfur situation after independently assessing the evidence. Today, warrants remain outstanding for five persons, all of whom occupied positions of responsibility at the time of their alleged crimes, namely, officials of the Government of the Republic of the Sudan Mr. Omar Al-Bashir, Mr. Ahmad Harun and Mr. Abdel Hussein; militia leader Mr. Ali Kushayb; and rebel leader Mr. Abdallah Banda. Notably, several of those suspects continue to hold senior positions within the Government. Combined, those arrest warrants include over 60 counts of war crimes and over 50 counts of crimes against humanity. The alleged crimes include extermination, murder, rape, forcible transfer and torture. Those are crimes that rightly preoccupied and concerned the Security Council, resulting in the referral of the Darfur situation to my Office. Yet the alleged perpetrators of those crimes remain free, while the victims and affected communities continue to await justice.

My Office's investigations in the Darfur situation continued throughout the current reporting period and significant progress was achieved. Notwithstanding the many challenges we face, my investigators remain dedicated to their mission and continue to identify leads and to interview new witnesses each month. The body of evidence is increasing, and my prosecution team continues to prepare in anticipation of future arrest warrants and the surrender of any of the Darfur suspects.

My report notes the positive news that levels of violence against civilians in Darfur continued to decrease during the reporting period. Nevertheless, the impunity that resolution 1593 (2005) sought to end continues in Darfur; regrettably, so does the commission of serious crimes. Those ongoing crimes include attacks against personnel of the African Union-United Nations Hybrid Operation in Darfur (UNAMID). In resolution 2429 (2018) of 13 July, the Council condemned the ongoing impunity for those who attack peacekeepers and urged the Government of the Sudan to do its utmost to bring all perpetrators of such crimes to justice. More than 11 years after Mr. Banda's alleged crimes against African Union peacekeepers, it is a serious indictment of us all that crimes against peacekeeping personnel continue to be committed in Darfur.

Conflict between forces of the Government of the Sudan and the Sudan Liberation Army-Abdul Wahid also continues in the Jebel Marra area. My report refers to information from UNAMID about the destruction of villages and the killing, injury and displacement of civilians. I continue to be deeply concerned by reports of sexual and gender-based violence against women and girls in Darfur. In resolution 2429 (2018), the Council expressed concern that UNAMID is unable to access areas from which it has withdrawn. I call on the Government of the Sudan to respond affirmatively to the Council's request for UNAMID to have unfettered access throughout Darfur, not least because of the vital role that the UNAMID plays in monitoring and reporting violence against civilians in Darfur.

My analysts will continue to assess allegations of current crimes in Darfur, not for the purpose of simply monitoring and reporting on the findings of others, as some assert, but rather to ensure that my Office is aware of allegations of ongoing grave crimes committed in Darfur and to feed that information into our ongoing assessment of the situation of which we are seized, as well as our independent investigations. We will continue to make use of reports from reliable entities and sources operating in Darfur.

I wish to emphasize that, in direct contravention of resolution 1593 (2005), the Government of the Sudan continues its policy of antagonism and non-cooperation, effectively obstructing my Office's ability to conduct investigations on the ground in Darfur. The Council is once again invited to urge the Government of the Sudan to cooperate with my Office in accordance with its own resolution.

I now turn to the issue of cooperation more broadly. Regrettably, as I outline in my latest report, my Office continues to face multiple obstacles and impediments in relation to that issue. With regard to the arrest and surrender of the Darfur suspects, the Council will recall the litigation before the Appeals Chamber in relation to Jordan's failure to arrest and surrender Mr. Al-Bashir to the Court when he visited Jordan on 29 March 2017. Pre-Trial Chamber II found that Jordan had failed to comply with its obligations under the Statute and decided to refer Jordan to the Assembly of States Parties and the Security Council. As the Council is aware, Jordan appealed that decision, which resulted in extensive litigation during the reporting period. That involved multiple written briefs and culminated in a five-day hearing before the Court's Appeals Chamber, from 10 to 14 September earlier this year. The issues focused on Head of State immunity, resolution 1593 (2005) and the articles of the Rome Statute relating to cooperation, consultations with the Court and the waiver of immunity. In the course of that process, multiple legal submissions were made, including by Jordan, the African Union, the League of Arab States, professors of international law and, of course, my Office. That comprehensive and inclusive legal process has now concluded. We await a final determination by the Appeals Chamber.

During the reporting period, Mr. Al-Bashir continued to travel internationally, including to Djibouti and Uganda in July. Both those States parties were previously referred to the Assembly of States Parties and to the Security Council for their failure to arrest and surrender Mr. Al-Bashir to the Court while on previous trips to their territory in 2016. No action was taken by the Council in relation to those or, indeed, any other referrals. It is therefore not surprising that States parties to the Rome Statute, such as Djibouti and Uganda, continue to host ICC suspects on their territory in blatant violation of the Court's findings. In the absence of any meaningful consequences for such instances of non-compliance, we are unlikely to see a change in such regrettable patterns. That status quo is hardly conducive to advancing the cause of justice in Darfur.

Yet again my Office calls on the Council to take meaningful action to give effect to non-compliance referrals by the Court. My Office took note of the declaration of 9 July by the High Representative of the European Union, which called on all United Nations Member States to abide by and to implement the resolutions adopted by the Council, notably resolution 1593 (2005). I remain grateful for the principled support of members of the Council, international and regional organizations and, indeed, all States that support the work of my Office in the Darfur situation.

In that regard, I was particularly encouraged by the recent Arria Formula meeting on the relationship between the Court and the Council convened on 6 July. That timely meeting was helpfully co-sponsored and organized by ICC States parties that are members of the Council, and I take this opportunity to once again express my appreciation to them for the initiative. The meeting provided a unique opportunity for the President of the Assembly of States parties, Council members, State representatives, civil society and my

Office, among others, to exchange views on how to further enhance coordination and synergies between the Council and the Court. Notably, numerous participants at that meeting expressed concern about the Council's failure to act in instances in which a State is referred to the Council pursuant to a finding of non-compliance by the Court. Several participants proposed concrete, entirely workable measures that the Council could adopt. I remain hopeful that the constructive dialogue and proposals at that meeting will provide further momentum that results in concrete action being taken by the Council on this issue.

As we are all aware, in resolution 1593 (2005) the Council decided that the Government of the Sudan and all other parties to the conflict in Darfur shall cooperate fully with, and provide any necessary assistance to, the Court and my Office. Yet the Government of the Sudan continues to completely disregard the Council's demand for such cooperation. On the occasion of my previous report to the Council I repeated my offer to the Government of the Sudan to engage in dialogue in relation to the situation in Darfur, including with respect to the issue of the surrender of the Darfur suspects to the Court. I also note that the Council, in resolution 2429 (2018), urged the Government of the Sudan to consolidate and expand its efforts to end impunity. Yet, despite my offer and the fact that the representatives of the Sudan previously asserted to the Council that combating impunity is a top priority, the Government of the Sudan has not engaged with my Office. I also note that, during the proceedings initiated by Jordan, the Appeals Chamber invited the Sudan and Mr. Al-Bashir to file submissions on the issues raised by the appeal. Yet they chose not to engage with the Court. The Rome Statute requires my Office to investigate incriminating and exonerating circumstances equally. If the Government of the Sudan has such evidence — both incriminating and exonerating — I invite it to come forward and share that evidence with my Office.

The Government of the Sudan can rest assured that the due process rights of any suspects who appear before the Court will be fully respected. Those include the right to counsel of their choice and, more important, the right to a fair, independent and impartial trial. Council members will recall that, at my previous briefing to the Council on the Darfur situation, the representative of Bolivia asked for a report on activities undertaken by the Court to promote the strengthening of judicial organs in the Sudan. Consistent with resolution 1593 (2005) and in accordance with the principle of complementarity, my Office is prepared to support national efforts to combat impunity in Darfur to the extent that my mandate and limited financial resources will permit. However, in the absence of any cooperation from the Sudan, I regret that I am unable to report any progress in that regard. The Government of the Sudan can, and must, demonstrate its stated commitment to ending impunity and to its respect for the authority of the Council by opening a new chapter of cooperation with my Office. It should allow my staff to conduct investigations on the ground in Darfur and facilitate access to victims, witnesses and the relevant documentary evidence. I once again invite the Government of the Sudan to work with my Office to pursue justice for the victims of the unimaginable atrocities that have occurred in Darfur.

I will conclude by recalling another statement made by a Security Council member at the time that the Council adopted resolution 1593 (2015),

> "what the Council said today is that there is no way, in our times, that anyone, anywhere in the world, can get away without just retribution for the commission of serious crimes." (*S/PV.5158, p. 10*).

Regrettably, justice and accountability for Rome Statute crimes remain, for now, unrealized aims in the Darfur situation. This is undeniably an unacceptable situation, which must not be permitted to continue. Justice delayed is justice denied. The judgment of victims and the critical eyes of history are upon us.

The President (*spoke in French*): I thank Prosecutor Bensouda for her briefing.

I shall now give the floor to those members of the Council who wish to make statements.

Mr. Cohen (United States of America): I thank the Prosecutor of the International Criminal Court for her briefing.

The United States will always believe that victims in Darfur deserve justice and that accountability is essential for achieving a stable and lasting peace in Darfur. We will continue calling for all those responsible for the horrific crimes committed in Darfur to be held accountable for their actions. After 15 years of conflict and a genocide in Darfur, more than 300,000 people have been killed, and close to 2 million more have been internally displaced. Clashes between opposition and Government forces in Darfur's Jebel Marra area continue to exact a toll on the civilian population,

including the destruction of villages and the killing, injury and displacement of civilians.

The United States is encouraged by United Nations reporting that Darfur's overall security situation is improving. However, the security situation for civilians in Jebel Marra remains precarious due to ongoing fighting between opposition and Government forces. That fighting has reportedly included attacks on civilians. More broadly throughout Darfur, persistent risks to civilians result from intercommunal violence between farmers and herders and there is harassment of internally displaced persons (IDPs) by armed settlers, among other issues. We urge the Sudanese Government to cease restrictions on movement in Darfur, especially within the Jebel Marra region, for the African Union-United Nations Hybrid Operation in Darfur (UNAMID) and humanitarian organizations to support the region's fragile security gains.

The United States also remains deeply concerned about the vulnerability of Darfur's IDPs. The Independent Expert on the situation of human rights in the Sudan highlighted land occupation and violence targeting internally displaced persons as a hindrance to IDP returns and the consolidation of peace in Darfur. The Independent Expert specifically noted sexual violence against displaced girls and women. Long-term stability in Darfur will depend on resolving the underlying causes of the protracted conflict. We welcome the 6 December signing of a pre-negotiations document by the Justice and Equality Movement, the Sudan Liberation Movement-Minni Minawi and the Government of Sudan. With that document signed, both sides have now agreed to a framework for substantive negotiations to achieve a cessation of hostilities and address the root causes of the conflict. We call on both sides to engage in an inclusive and transparent way in the pursuit of an outcome that benefits all the people of Darfur, not just those with weapons. Lastly, we call on both the Government of the Sudan and Sudan Liberation Army-Abdul Wahid to immediately cease all hostilities and engage with the UNAMID Joint Chief Mediator on ways to begin peace talks.

The United States supports the establishment of benchmarks and indicators of achievement to strengthen the rule of law in the Sudan, as proposed by the Secretary-General in his 12 October report on the African Union-United Nations Hybrid Operation in Darfur (S/2018/912). The proposed benchmarks include, inter alia, the establishment of a truth, justice, and reconciliation commission, a Sudan police force presence in all localities and investigations and prosecutions by Sudan's judicial system of conflict-related sexual violence and gender-based violence. We acknowledge the Government of the Sudan's steps to strengthen judicial institutions through the deployment of judges and prosecutors. We encourage the Government of the Sudan to continue reinforcing that process to ensure that victims of human rights violations and abuses have adequate access to the judicial system.

As the international community's support of the Sudan in Darfur transitions from peacekeeping to peacebuilding, the United States will remain engaged on Darfur. We have demonstrated that through the phase-2 framework for United States-Sudan bilateral relations, which launched in October 2018, and through continued support to help meet the needs of more than 3 million people who require humanitarian assistance in Darfur. The phase-2 framework seeks to expand our bilateral cooperation and facilitate gradual but meaningful reforms to enhance stability and strengthen human rights protections and practices in the Sudan. That cooperation also aims to support freedom of religion, freedom of expression, particularly for the press, humanitarian access, the cessation of internal hostilities and a more conducive environment for progress in the Sudan's peace process.

The United States will use all appropriate tools at its disposal to press the Sudan to improve human rights practices and protect fundamental freedoms for the people of Darfur. We believe that the United Nations should also make promoting and protecting the human rights of Darfuris the heart of its efforts in Darfur, whether through UNAMID or the evolving United Nations country team presence. The international community must ensure that human rights monitoring and reporting continue in Darfur following the drawdown of UNAMID, ideally through the establishment of a full-fledged office of the Office of the United Nations High Commissioner for Human Rights, as called for in the special report of the Secretary-General and the Chairperson of the African Union Commission (S/2018/530). We are eager to hear an update from the High Commissioner's Office on steps taken towards the establishment of a country office.

The people of Darfur are hungry for peace after 15 years of conflict. A Sudan that adheres to the rule of law, respects human rights, allows unhindered

humanitarian access to all populations in need and breaks the cycle of impunity is one that will enjoy a sustained peace and prosper. We remain committed to working with the Government of the Sudan to usher in that future.

In closing, I must reiterate the long-standing concerns of the United States regarding the International Criminal Court (ICC). The United States has consistently rejected any assertion of ICC jurisdiction over nationals of States that are not parties to the Rome Statute, absent of a Security Council referral or the consent of such States. The United States regards any ICC investigations and other activities concerning United States or Israeli personnel as illegitimate and unjustified.

Mr. Llorentty Solíz (Plurinational State of Bolivia) (*spoke in Spanish*): My delegation is grateful for the informative briefing delivered by the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, on her twenty-eighth report pursuant to resolution 1593 (2005). We also pay tribute to the hard work carried out by her Office on this case. We have taken stock of the progress made by the Darfur investigation team during the reporting period, as well as the difficulties that the Prosecutor's Office faces both in the course of its investigations and in its judicial activities, hindering the fulfilment of the task entrusted to it by the Security Council.

The situation in Darfur triggered the first referral of a case by the Security Council to the International Criminal Court more than 13 years ago. Since then, some 28 reports have been submitted and yet the case continues to languish in the investigation phase, with serious obstacles to making progress. We reiterate that the Council cannot remain indifferent to the fact that the investigation has been prolonged for more than a decade. It is clear that the time elapsed has not contributed to shedding light on the crimes committed and has made it more difficult to attribute accountability, not to mention the high economic cost, as highlighted by the Assembly of States Parties to the Rome Statute with regard to the cases that the Council has referred to the Court. Fortunately, the Assembly of States Parties has also provided very concrete indicators regarding the budget in order to ensure the most efficient, effective and transparent use of the funds. The Office of the Prosecutor, which utilizes the largest percentage of those resources, now faces the challenge of prioritizing their optimal use.

Bolivia believes that those who have committed war crimes and crimes against humanity or genocide must be held accountable before the Court. We cannot deny that that is an important and fundamental element to consolidating peace in Darfur. However, over the past few years we have witnessed signs of positive progress in the Sudan. As indicated in the latest reports of the African Union-United Nations Hybrid Operation in Darfur (UNAMID), as well as the recent presidential statement of the Security Council (S/PRST/2018/19) and even in the most recent report of the Prosecutor, the general improvement of the situation in Darfur and the progress achieved in terms of cooperation between the Government of the Sudan and the United Nations have facilitated the work of UNAMID on the ground. We believe that that achievement is principally the result of the joint work carried out among the African Union, the United Nations and the Government of the Sudan. All of those efforts must remain focused on the consolidation of peace in Darfur.

We are also encouraged to note that the ICC and the African Union are improving cooperation between their two institutions. The Court should contribute to the efforts of the international community, in particular those of regional organizations, to strengthen the political processes in the Sudan, especially those related to the Doha Document for Peace in Darfur. We reiterate that cooperation and coordination between the ICC and the African Union are critical, as highlighted in resolution 1593 (2005).

We emphasize that the development and future of international criminal justice are closely tied to the concepts of cooperation and complementarity among States. The International Criminal Court is intended to complement the primary sovereign capacities of each State to administer justice within its territory. Therefore, in addition to ensuring effective and timely trials, we must also restore local capacities. That highlights the fact that it is now necessary to grant special attention to reviewing the case of Darfur, which the Prosecutor mentions in her report, introduced today. It also calls on the Office of the Prosecutor to assess the array of cultural, social and political scenarios in which it intervenes, the evaluation of which is unavoidable if progress is to be made in terms of effective cooperation in the investigation and prosecution of suspects. Bolivia insists on the importance of an understanding that transcends traditional approaches that are ineffective, onerous and obstructive. A restorative justice that

promotes peace and reconciliation among peoples remains possible.

In that regard, in celebrating the twentieth anniversary of the Rome Statute this year, we should take the opportunity to reflect on the effectiveness of the Court and on whether the model as originally conceived still meets the expectations of cooperation and universality. The Security Council and the membership of the United Nations in general should value the work that the Court undertakes in order to pursue the investigations and cases referred to it — even more so when we consider that several States, including members of the Council, are not yet parties to the Rome Statute.

For the same reason, the debate on the impunity of many of those responsible for the commission of crimes against humanity, war crimes or genocide has been weakened relative to the capacities of the Court, serving only to diminish its effectiveness in fulfilling its duties. We insist on the fact that we cannot maintain sincere dialogue while there are still countries demanding the full rigour of justice without complying with their own international obligations, including by openly denouncing the Court.

Finally, in respecting its own obligations as a State party to the Rome Statute of the International Criminal Court, Bolivia supports efforts to seek justice and fight impunity. We therefore urge all States that have not yet done so to ratify the Rome Statute in order to guarantee its universal jurisdiction. We believe that the value of the principle of universality of international criminal justice is critical in that regard.

Ms. Schoulgin Nyoni (Sweden): I wish to thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC), for her updates to the Council today.

We welcome the important developments that have been made in the ongoing investigations, including the collection of evidence by the Darfur investigation team, since we last met on this item in June (see S/PV.8290). It is evident that the Office of the Prosecutor and relevant partners continue to make progress on this file.

Member States, on the other hand, continue to fail in upholding their responsibilities. All suspects remain at large and the President of the Sudan continues to travel internationally, including to States parties to the Rome Statute that have an obligation to arrest and surrender suspects to the Court. The failure to implement the Court's orders is not only disappointing — it is disturbing. Yet again, we call on the Government of the Sudan and all Member States to cooperate fully with the ICC, in accordance with resolution 1593 (2005), and to arrest individuals subject to arrest warrants. The Government of the Sudan must also take further steps to ensure justice for the women, men, girls and boys who have been victims of horrendous crimes during the conflict in Darfur.

The issue of non-cooperation with the Court remains challenging. Without its own enforcement mechanism, the Court relies on States to fulfil its mandate, including by executing arrest warrants. The Council should approach cases of non-cooperation in a structured manner. We support the proposal made by France at our last briefing with regard to inviting Member States that have been found to be in non-compliance with the Court's orders to address the Council. The Court's decisions must be respected.

Turning to the current situation in Darfur, we welcome that the reported violence against civilians has declined and that the overall situation has continued to improve, as noted in the Prosecutor's report. However, we remain concerned about the reported sexual and gender-related violence, which remains a serious problem. A holistic approach to sustaining peace and addressing the root causes of instability, including by building effective rule of law institutions, is essential to addressing the remaining challenges.

A sustained focus on peacebuilding and development activities remains critical, and in this regard we welcome the presidential statement adopted earlier this week on this very issue (S/PRST/2018/19).

During Sweden's two years on the Council, we have followed the work of the ICC and the Prosecutor's Office closely. We have seen how the Court, through dedicated and efficient action, has taken significant steps to ensure accountability for perpetrators of the worst crimes known to humanity. The Court has continually contributed to the advancement of international criminal law, including by rendering landmark verdicts on the recruitment and use of children in armed conflict, which is a matter to which Sweden has paid particular attention during our time on the Council.

We have also seen the tireless efforts made by the Prosecutor to engage the international community,

not least the African Union and African States, and inform all Member States about the work of the Court. We commend the Prosecutor's outreach efforts. We are also encouraged by her work on integrating a gender perspective and analysis into the Office's work, including policies on sexual and gender-based crimes, as well as children.

This year has been a special year, as we celebrated the twentieth anniversary of the adoption of the Rome Statute. Only a few days ago, we also celebrated the seventieth anniversary of the Universal Declaration of Human Rights and the Convention on the Prevention and Punishment of the Crime of Genocide, which are both based on the idea of the inherent and inviolable rights of every individual and the need for individual criminal responsibility for mass atrocities. The international community's recognition of the fact that upholding human rights and pursuing justice are fundamental to a just and sustainable peace represents an acknowledgement, reflected by the actions of the United Nations and international criminal justice, that now forms part of the fabric of this Organization.

This year's anniversaries remind us of how much we, through joint efforts, have achieved for the development of the international justice system. We should be proud, but, regrettably, our achievements have been clouded by increased pressure on and hostile rhetoric against the Court. We therefore repeat what we said during the briefing on the International Residual Mechanism for Criminal Tribunals earlier this week (see S/PV.8416): that as regrettable as this situation is, what it also tells us is that the work of the international Court and Tribunals has real impact. The courts and the Tribunals were not established to serve or depend on any one country's interests. They were set up to see that justice is served for victims and to ensure accountability for perpetrators of the worst crimes known to humanity, and, naturally, they are uncomfortable for those who violate international law.

The ICC is not targeted at any particular region or continent; it is impartial and goes wherever justice is most in danger. It is a Court of last resort that complements and does not replace national courts. Complementarity and cooperation between national jurisdictions and the Court are essential features of the Rome Statute.

We wish to conclude by reiterating our steadfast support for the Court and the Office of the Prosecutor. Ms. Bensouda's unwavering commitment to justice is admirable, and we commend her for her continual fight for accountability, not least in these challenging times.

Ms. Wronecka (Poland): I thank Prosecutor Fatou Bensouda for her report and for the work that the Office of the Prosecutor continues to carry out in this case, in keeping with its commitment to international criminal justice. All of this highlights the need for all States and the regional and other international organizations concerned to cooperate fully, as urged by the Security Council, acting under Chapter VII of the Charter of the United Nations, in resolution 1593 (2005). This also reminds us of the significance of the Council's and other stakeholders' actions and support for the work of the Office of the Prosecutor, with a view to ensuring that the victims and the witnesses eventually see justice done.

An additional reason for the importance of this follow-up is the fact that, as Ms. Bensouda observed in her previous briefing to the Council,

> "Sustainable peace and stability can return to Darfur only once the root causes of conflict are addressed. That includes ending impunity for alleged crimes under the Rome Statute in Darfur and ensuring accountability for the victims of those serious crimes." (*see S/PV.8290, p. 4*)

We call on all stakeholders to work towards that end and to cooperate with the Office, including, but not limited to, on facilitating the collection of evidence, the freezing of assets and assistance in the arrest and surrender of fugitives.

We welcome the Office's dedication in pursuing investigations against suspects in the Darfur situation, the significant progress achieved and the cooperation and assistance from some States in furtherance of its mandate. We encourage it to continue fulfilling its commitment despite the challenges.

While we acknowledge that the reported violence against civilians there appears to have decreased, we are concerned about the clashes between Government forces and the Sudan Liberation Army/Abdul Wahid faction in Jebel Marra and their consequences for the civilian population. We share the Office's concern about the high numbers of internally displaced persons and their fate upon their return to their areas of origin, including the risk of becoming victims of violence, including sexual violence, especially for women and

girls. Let me stress once again that if we do not address the root causes of conflict and devise a sustainable solution allowing millions of internally displaced persons to safely return to their homes, durable peace in Darfur may be hard to achieve.

We take note of the Office's reports on the travel of some of the suspects to several States, as well as the failure by Rome Statute States parties to arrest and surrender fugitives from the Court, both of which regrettable. We call on all stakeholders to undertake adequate steps to address these issues.

In that regard, we take note of the fact that the Prosecutor has urged the Council to consider options to respond to States parties that invite and host Darfur suspects on their territory. We also reiterate the proposal to invite States deemed by the Court to have breached their obligation to cooperate to address the Council.

Additionally, we support the position that on the basis of such an exchange, the Council determines the concrete steps and effective measures to be taken when it is seized of the issue of States' non-cooperation with the Court. We would like to reiterate in this context our position expressed during the 6 July Arria Formula meeting on relations between the Court and the Council, which Poland co-sponsored.

To conclude, we would like to reiterate our appeal to demonstrate support and cooperate with the Office and the Court in relation to the Darfur situation. Darfur's victims and witnesses, to whom we pay tribute, deserve no less.

Mr. Wu Haitao (China) (*spoke in Chinese*): China listened closely to the briefing by Prosecutor Bensouda. In recent years, the political and security situation in Darfur has improved. The Sudanese Government signed an agreement on relaunching the Doha negotiations with the Sudan Liberation Army-Minni Minawi, the Justice and Equality Movement and other armed groups. This is conducive to further improving the situation in Darfur. China appreciates the efforts made by the Sudanese Government to maintain peace and stability in Darfur and to promote the political process.

Developments in Darfur have shown that the Sudanese Government is fully capable of gradually taking over the responsibility for the maintenance of international peace and stability in Darfur. It is our hope that the international community will continue to respect the ownership of the Sudanese Government on the question of Darfur and provide constructive assistance for peace and security in Darfur so as to achieve lasting peace, stability and sustainable development there.

China's position on the International Criminal Court (ICC) remains unchanged. China hopes that the Security Council and the ICC will fully respect the judicial sovereignty of the Sudan, fully heed the legitimate demands of the African Union and the Sudanese Government made to the ICC concerning the Sudan, and fully respect the views of the African Union and the League of Arab States. China has always believed that Heads of State enjoy privileges and immunity under international law. The referral by the Security Council of the situation to the ICC does not automatically remove the immunity of Heads of State.

Mrs. Gregoire Van Haaren (Netherlands): The Kingdom of the Netherlands joins others in welcoming the Prosecutor back to the Security Council. We thank Prosecutor Fatou Bensouda for her briefing and her report.

The Kingdom of the Netherlands wishes to avail itself of this opportunity to reiterate its full support for the International Criminal Court. That institution was created to strengthen the international rule of law by bringing those responsible for gross human rights violations and international crimes to justice. The International Criminal Court is the only permanent international court that can judge the perpetrators of the most serious crimes of concern to the international community. We express our gratitude for the continued commitment of the Prosecutor and her Office while working in the most difficult conditions.

Please allow me to focus on three important aspects: first, the situation in Darfur; secondly, accountability; and thirdly, cooperation with the Court.

First, the Kingdom of the Netherlands welcomes the decrease in fighting in Darfur and in the level of violence against civilians in recent months. However, we remain deeply concerned about continued human rights violations committed by several parties to the conflict, including the Government of the Sudan. We are also extremely concerned about continued reports regarding sexual and gender-based violence, arbitrary arrests and extrajudicial killings.

At the same time, the situation with respect to the 2.1 million internally displaced persons seems

unchanged. We underline that any return should be safe, voluntary and in accordance with international law. We remind the Council that charges in the Sudan case include genocide, war crimes and crimes against humanity. The severity of these charges led the Council to refer the situation in the Sudan to the ICC 13 years ago.

This leads me to my second point, concerning accountability. Accountability for international crimes and gross human rights violations is not only vital to justice, but the only way that leads to sustainable peace. Ultimately, it is about bringing justice to the victims by ensuring the accountability of the perpetrators. The people of Darfur, including those present here today, deserve this.

Gross human rights violations can also trigger further conflict and need to be addressed to ensure any form of sustainable peace. If we do not take this seriously and act upon this belief, opportunism will continue to prevail and the international rule of law will continue to be undermined. We need to end the climate of impunity. It is the Council's responsibility to stop such developments and ensure the effectiveness of the decisions it has made in the past. That is the only way to ensure international peace and security.

My third point concerns cooperation with the Court. In 2005, the Council unanimously referred the situation in the Sudan to the International Criminal Court. Today, over 13 years after the adoption of resolution 1593 (2005), all suspects in this case remain at large, while the charges remain in effect. Paragraph 2 of the resolution requires the Government of the Sudan and all other parties to the conflict to cooperate fully. It also calls upon all States and regional and international organizations to cooperate fully with the Court and the Prosecutor.

The Court is heavily dependent on cooperation to function effectively. It is unacceptable that fugitives of the Court continue to travel unhindered. We align ourselves with the Prosecutor in urging those States that invite and host suspects on their territory to consult with the Court. The Kingdom of the Netherlands will continue to call upon all States to meet their obligations under resolution 1593 (2005), to cooperate fully with the Court and to fulfil their international obligations. We also urge the Council to continue to work on ways to address cases of non-cooperation with the Court.

In conclusion, we remind our fellow Council members that we bear a shared responsibility in the area of cooperation to ensure that the International Criminal Court can execute the mandate that the Council decided to give it 13 years ago. Let me reiterate our great thanks to the Prosecutor and her Office for their tremendous efforts under difficult circumstances.

Mr. Temenov (Kazakhstan): I would like to thank the Prosecutor of the International Criminal Court (ICC), Ms. Fatou Bensouda, for her semi-annual briefing to the Council and her efforts to uphold the international rule of law, justice, transparency and accountability. We take note of the twenty-eighth report of the Office of the Prosecutor and would like to make the following observations.

Kazakhstan welcomes Khartoum's commitment to stability in Darfur and its strengthened cooperation with the United Nations and the African Union (AU). These efforts have resulted in the continued improvement of the security situation in Darfur, as well as an overall reduction in intercommunal clashes, criminal activities and human rights incidents. We note that Khartoum has been able to consolidate its authority across the Darfur area and has demonstrated its political will to sustainably address the challenges in the region. These positive results would not have been achieved without respecting the national ownership, sovereignty and independence of the Sudan.

Kazakhstan is confident that constructive and inclusive dialogue, in accordance with the Doha Document for Peace in Darfur, is the only way to establish peace, stability and justice in Darfur. We therefore welcome the signing of a pre-Doha negotiation agreement between the Government of the Sudan, the Sudan Liberation Army-Minni Minawi and the Justice and Equality Movement on 6 December. We encourage the Government of the Sudan to maintain this positive movement and continue to work diligently with all relevant parties towards advancing the peace process, addressing the root causes of the conflict and achieving peace and prosperity for the entire Sudanese population.

We also need to acknowledge the Sudan's constructive efforts to address regional peace and security issues, including terrorism and human trafficking. It is commendable that the Sudan has been playing an important role in advancing the peace process in South Sudan. Kazakhstan underscores the critical role of regional cooperation in resolving the crisis in

Darfur and its return to peace, justice and stability. We therefore suggest that the Court take into consideration the unified position of the African Union and establish dialogue with the AU Open-ended Committee of Ministers of Foreign Affairs on the ICC. We encourage the Court to join regional and international efforts by enhancing the Sudan's capacity to promote the rule of law and protect human rights.

In conclusion, we believe that only joint efforts and mutual trust between all parties and institutions will lead to a stable, peaceful and prosperous Sudan.

Mrs. Gasri (France) (*spoke in French*): I would like to thank the Prosecutor, Ms. Fatou Bensouda, for her twenty-eighth report and for her briefing, as well as for the progress made regarding the situation in Darfur.

On behalf of France, I would like to thank the Prosecutor and her teams for the indispensable work they are carrying out on behalf of the victims awaiting recognition and reparations; for the witnesses who truly believe in international justice; and for the Security Council, which referred the situation of Darfur to the International Criminal Court by resolution 1593 (2005) 13 years ago. We are starkly aware of the difficulty of this task.

The responsibility of the Council is the same as it was 13 years ago. It must take resolute action to fight against impunity in the Sudan and to put an end to the grave crimes committed in Darfur. This is critical to the achievement of any long-term stabilization in Darfur and in the Sudan. The International Criminal Court is essential in that regard.

As others have already said, the overall improvement in the security situation creates opportunities for stabilization, which is encouraging. However, there are still many challenges to address, particularly regarding the protection of civilians. That is particularly the case in Jebel Marra, where clashes continue with consequences in the form of attacks on civilians, displaced populations and human rights violations. We are worried about sexual and gender-based violence, which victimizes women and girls in particular and does so with complete impunity. We are also concerned about the plight of the displaced populations. Lasting solutions must be found for the 2 million displaced people in Darfur.

It is imperative that the Sudanese authorities and armed groups make progress in the peace process. Beyond the cessation of hostilities, it is important to address the root causes of the conflict, including the issues of landownership, access to natural resources and, of course, the restoration of the rule of law. The ability to effectively combat impunity and strengthen legal institutions and respect for human rights are inextricably linked to this.

In all these areas, the African Union-United Nations Hybrid Operation in Darfur (UNAMID) must play its full role. It is particularly essential to ensure that it has access to the areas where civilians are most vulnerable. Humanitarian access, which must be guaranteed, is essential in Jebel Marra and elsewhere. It will also be important to strengthen the country team by ensuring that it is adequately equipped, funded and deployed with a view to UNAMID's eventual withdrawal. As of now, both UNAMID and the United Nations country team must be able to monitor the situation of human rights, internally displaced persons and sexual violence closely, including in remote areas.

France would like to once again remind the Council of States' obligation to cooperate with the Court, in accordance with the Council's resolutions. That obligation is primarily incumbent on the Sudan, which must cooperate with the Court in executing arrest warrants against its nationals for acts committed on its territory, as required by resolution 1593 (2005). We must respond to the Court's legitimate requests so that it is able to fully carry out its mandate. France will not let refusals to cooperate be taken lightly, especially when they come from States parties to the Rome Statute. In that respect, we were pleased that in her most recent report the Prosecutor referred to the discussions in our Arria Formula meeting of 6 July, as well as to France's proposal that States that the Court has found to be in breach of their obligation to cooperate with the Court be asked to explain themselves to the Council. We reiterate our proposal.

Mr. Kuzmin (Russian Federation) (*spoke in Russian*): We have studied the twenty-eighth report of the Prosecutor of the International Criminal Court (ICC) on the investigation of the situation in Darfur. We discovered two lines in paragraph 22 with a puzzling sentence about some apparently significant progress in the investigation. That was all there was about the investigation. For the remainder of the report, the Office of the Prosecutor busied itself tracking the international visits of President Omar Al-Bashir of the Sudan.

As I understand it, we are seeing the emergence of a new and fascinating topic, which is holding States accountable for violating their obligations to cooperate with the ICC. That is undoubtedly less time-consuming and costly than the scrupulous gathering of evidence of the crimes committed by all the parties to a conflict — I repeat, by all the parties to a conflict — interviewing victims and witnesses and so forth. Am I right?

Meanwhile, the President of the Sudan, like any other president, enjoys immunity from foreign criminal jurisdiction. That immunity continues to be in effect after a situation is referred to the ICC. In not cooperating with the ICC, States, including parties to the Rome Statute, are acting in accordance with their international legal obligations, and our position on the issue has not changed. We urge the ICC to focus on its main functions and to finally begin an objective, comprehensive investigation of the situation in Darfur.

Mr. Elé Ela (Equatorial Guinea) (*spoke in Spanish*): In taking the floor on this particular agenda item, we would like to once again welcome Ms. Fatou Bensouda and thank her for her report, which is virtually the same as the preceding one on the most recent judicial activities and ongoing investigations of the Office of the Prosecutor and on the specifics of the issue of cooperation on the Darfur issue. According to the document circulated, which we have studied carefully, there have been no significant changes since the previous report of the Office of the Prosecutor, and while it states that the research team has made significant progress, it does not clarify what that progress is. I am sure everyone here would be interested in a clarification about what is new in the report and the most significant developments that have occurred in the reporting period.

We are pleased about the gradual improvements in the security situation, but we deplore the armed clashes that occurred in southern Jebel Marra in September and that resulted in further displacements and the killing of 10 civilians in Gubbo. We also condemn the attacks on civilians, sexual violence against women and internally displaced persons. In that regard, we appeal to the international community and the parties to the conflict to work to improve the living standards and restore dignity to the people of Darfur.

With regard to the fugitives sought by the International Criminal Court, the report cites Equatorial Guinea as one of the countries visited by President Omar Hassan Al-Bashir of the Sudan. Certainly, as Head of State, he was invited to Malabo along with his counterparts to celebrate and commemorate the fiftieth anniversary of the independence of the Republic of Equatorial Guinea on 12 October. In that regard, I would like to make it clear that Equatorial Guinea is not a party to the Rome Statute or to the International Criminal Court. We therefore do not accept or endorse the selective prosecution policies applied by the Court, which do not even take into consideration the respect and immunity due to Heads of State in the full exercise of their functions, as in the case of President Al-Bashir. We believe that such actions and approaches hinder cooperation with the Court whether by States that are party to the Rome Statute or those that are not, and that they cast doubt on the Court's credibility.

Mrs. Dickson (United Kingdom): I would first like to thank the Prosecutor for her twenty-eighth report on the situation in Darfur and for her briefing today. I would also like to commend the hard work that she and her staff have done in relation to this investigation and their commitment to making progress and getting justice for the victims.

The United Kingdom welcomes the reports that the level of violence against civilians in Darfur has fallen over the past six months. As the African Union-United Nations Hybrid Operation in Darfur (UNAMID) draws down, we encourage the Government of the Sudan to focus its efforts and resources on building the capacity of the Sudanese police force and judiciary to prevent, respond to and investigate human rights abuses and violations. We continue to support the Government of the Sudan's stated aim of opening an office for the High Commissioner for Human Rights before next October. More broadly, we encourage the Government of the Sudan to engage constructively with the Secretary-General's recommended benchmarks in order to ensure that the transition from peacekeeping to peacebuilding in Darfur is a success.

While the situation in wider Darfur shows signs of improvement, the situation in Jebel Marra remains of serious concern. The ongoing targeting and displacement of civilian populations is particularly worrying, with as many as 2 million internally displaced persons currently in Darfur. The United Kingdom urges the Government of the Sudan to abide by its unilateral cessation of hostilities and to facilitate unfettered access throughout Darfur to UNAMID and humanitarian actors. We also urge the Sudan Liberation

Army-Abdul Wahid to extend its unilateral cessation of hostilities, which is due to expire on 18 December, and to engage immediately with the peace process.

The United Kingdom welcomes the recent signing in Berlin of a pre-negotiation agreement for the resumption of the peace process in Darfur and the African Union High-level Implementation Panel meeting in Addis Abba. The people of Darfur have already waited too long for sustainable peace, justice and accountability. We therefore urge all parties to build on the current momentum by swiftly agreeing to a permanent ceasefire and engaging meaningfully in negotiations to reach an inclusive political settlement that addresses the root causes of the conflict.

The United Kingdom was pleased to co-host the Arria Formula meeting in July that resulted in productive discussions on the relationship between the Court and the Council. We encourage further discussion on ideas generated from that meeting to improve the relationship, including addressing non-compliance by States parties. We call on all States parties to cooperate with the International Criminal Court (ICC) and abide by their Rome Statute obligations. We note the Government of the Sudan's continuing complete disregard for its obligations under resolution 1593 (2005) to cooperate with the Court and to fulfil its international obligations. We yet again urge the Government of the Sudan to cooperate fully with the Court and the Office of the Prosecutor and to provide them with assistance.

The United Kingdom continues to be frustrated about the fact that fugitives of the Court, including President Al-Bashir, are still travelling overseas unhindered, including to the territory of States parties to the Rome Statute. We will continue to raise our concerns with the relevant Governments and to renew our call on all States to cooperate with the ICC in relation to the Darfur situation, as required by the Security Council, and on States parties to abide by their obligations under the Rome Statute. We urge any State that feels unable to cooperate with the Court for any reason to consult the Court's authorities. We also support France's proposal that States that according to the Court have not complied with their obligations to cooperate with it be invited to address the Security Council.

Finally, we acknowledge the Prosecutor's dedication to her continuing investigations, and welcome the news that significant progress has been achieved by the Darfur investigation team within the reporting period. We recognize the importance for the victims and their families, some of whom I understand are with us today, of hearing regularly from the Prosecutor on progress in the investigation, and it is important for the Council to hear from her too. The United Kingdom again thanks the Prosecutor for her report, and her Office for its persistent pursuit of justice for victims in Darfur. We would like to take this opportunity to reaffirm the United Kingdom's commitment to supporting the Court, both as a State party to the Rome Statute and as a member of the Council.

Mr. Almunayekh (Kuwait) (*spoke in Arabic*): At the outset, I would like to welcome Ms. Fatou Bensouda, Prosecutor of the International Criminal Court (ICC). We have taken note of the content of her briefing on the twenty-eighth report of the ICC concerning the Sudan.

The Security Council must deal with the issue of Darfur in a consistent and comprehensive manner, particularly in the light of the progress that has been made there. Darfur province has just emerged from a phase of conflict and is entering a peacebuilding phase. In a presidential statement three days ago (S/PRST/2018/19), among other things the Council welcomed the improvement of the security situation in Darfur and the settlement of conflicts between tribes, thanks to the efforts of the Government of the Sudan and the African Union-United Nations Hybrid Operation in Darfur. The Council encouraged States to contribute to the transition process for peacebuilding in Darfur. We hope that the ICC's proceedings will not hinder peace efforts in the Sudan.

The ICC proceedings attempt to set a legal precedent for a President who is still in office and enjoys immunity under international law, and the Court's decision concerning the President of the Sudan does not have the agreement of the international organizations of which the Sudan is a member, including the League of Arab States, the African Union and the Organization of Islamic Cooperation, all of which belong to international and regional partnerships of the United Nations under Chapter VIII of the Charter. We want to once again recall resolution 514 of the twenty-second Arab Summit, adopted in Sirte in 2010, which represents the Arab position on the ICC proceedings against the President of the Sudan and which rejects the politicization of the principles of international justice and infringements on the sovereignty, unity and stability of States.

In conclusion, we reaffirm our commitment to respecting the principles of international law, including the sovereignty of States. We reiterate the importance of respecting the sovereignty and independence of the Sudan.

Ms. Guadey (Ethiopia): This is the last time that Ethiopia will speak on this subject in the Council, and our position on this issue remains the same. The referral by the Security Council of the situation in Darfur to the International Criminal Court (ICC) and the subsequent developments concerning the President of the Sudan do more harm than good. To make matters worse, the way the ICC has liberally interpreted and applied the Council's referral is very short-sighted, with grave implications for the peace and security of the Sudan and the region.

That also continues to be the position of the African Union (AU), which should not be surprising. It is well known that the manner in which the ICC has operated has left a very bad impression in Africa, and that is why Africa has been expressing serious reservations about the ICC that have been reflected in a number of decisions adopted by the African Union's policy organs. The African Union Commission is taking the necessary legal and other initiatives to address those issues based on the decision of the African Union Assembly of Heads of State and Government. However, the intent of those exercises should not be misunderstood. As a matter of fact, many of the member States of the African Union were among the first to ratify the Rome Statute. Time and again we in Africa have affirmed our unflinching commitment to fighting impunity and promoting democracy, the rule of law and good governance throughout the continent, in accordance with the Constitutive Act of the African Union, and that has been empirically validated by bold actions taken by the AU in recent times.

The AU reiterates that the quest for justice should be pursued in a manner that is not detrimental to the quest for peace. The Security Council's referral of the situation in Darfur runs counter to that, which is why the AU has repeatedly asked that the proceedings against President Omar Al-Bashir be suspended and urged the Security Council to withdraw its referral to the ICC. It is indeed regrettable that Africa's repeated request has so far been neither heard nor acted on. What the African leaders have requested is far from difficult for the Security Council to meet. The Council has simply been asked to discharge its responsibility under the Charter, and as far as we are concerned, there is no legitimate reason to reject the request. The issue of the ICC has remained a nuisance in the partnership between the United Nations and the African Union, and the sooner we address it through genuine dialogue based on trust and understanding, the better it will be for our ability to address challenges to peace and security in Africa. That is the kind of opportunity that Africa has been looking for but has been denied by the Council.

Turning to the situation in Darfur, we are pleased to note once again that it continues to improve and can no longer be characterized as an armed conflict between Government forces and non-State actors. The problem now is basically the lack of development. It is in recognition of that that the Chairperson of the African Union Commission and the Secretary-General of the United Nations have recommended that the African Union-United Nations Hybrid Operation in Darfur wind down its operation in Darfur and that the role and capacity of the United Nations country team be strengthened in exchange. For its part, the Government of the Sudan is making significant efforts to find durable solutions to the suffering of the people of Darfur. Such efforts require substantial assistance from the international community to ensure their sustainability. We are also encouraged by recent developments in the political process. We welcome the signing of the pre-negotiation agreement for the resumption of the peace process in Darfur. We trust that it will serve as a stepping stone to concluding a comprehensive peace agreement forthwith. We call on the holdout groups to join the peace process without conditions and avail themselves of the positive trends. We have no doubt that the Council and the African Union Peace and Security Council will use their comparative advantages to make refusing the call to join the peace process cost dearly.

Finally, we are witnessing at first-hand the constructive role the Sudan is playing in dealing with peace and security issues in the region, including on fighting terrorism, combating human trafficking and illicit migration, regional peace and stability and humanitarian relief. In fact, the Sudan is becoming increasingly important and indispensable player in the region and beyond. It would only be appropriate for the Council and the international community at large to review their approach towards the Sudan in the light those developments. It is high time that the undue politicization that has victimized the President of the Sudan come to an end.

Mr. Duclos (Peru) (*spoke in Spanish*): We thank you, Sir, for convening today's meeting. We also thank Prosecutor Fatou Bensouda for her important briefing.

We note the improvements in the security situation in Darfur and wish to highlight the work of the African Union-United Nations Hybrid Operation in Darfur, as well as the efforts of the Government of the Sudan in that area. We must also express our regret and concern about the growing insecurity in the Jebel Marra area, which has an impact on the delicate humanitarian situation and leads to serious human rights violations. We condemn the destruction of villages, killings, forced displacements and cases of sexual and gender-based violence, which must all cease. Those responsible must be brought to justice. In that regard, we wish to support the work of the Prosecutor and her team and encourage them to redouble their efforts in compiling testimonies and other evidence related to the commission of atrocities.

We reiterate the need for States, including the Republic of the Sudan and members of the Council, to cooperate with the International Criminal Court and its Prosecutor in order to allow access to justice, prevent impunity and thereby assist in achieving lasting peace in the Sudan. We deplore the fact that States parties to the Rome Statute have not complied with arrest warrants issued by the Court against suspects who have entered their countries. We remind them that they are obliged to comply with the Court's arrest warrants and provide their timely and effective cooperation.

We recall that the Security Council referred the situation to the Prosecutor for consideration. The International Criminal Court has therefore established its jurisdiction over crimes against humanity committed in Darfur. In that regard, we believe that the Council should have specific procedures to respond to cases of non-compliance and lack of cooperation, with a view to holding the States concerned accountable for their inaction. We support France's initiative in that regard.

Lastly, we recall that, while the Court is fundamental to preventing the most serious crimes from going unpunished, its jurisdiction is complementary to the responsibility of any State to protect its population and that trust in justice is particularly relevant to a country affected by the conflict, such as the Sudan. In that regard, we stress that the mandates and functions of the Security Council and the International Criminal Court seek to reach similar objectives, expressly aimed at achieving the purposes and principles enshrined in the Charter of the United Nations. The primary responsibility of the Council for maintaining international peace and security and the competence of the Court on the most serious international crimes must be understood and executed as complementary and interdependent tasks.

The President (*spoke in French*): I shall now make a statement in my capacity as the representative of Côte d'Ivoire.

I thank Ms. Fatou Bensouda, Prosecutor of the International Criminal Court, for her briefing on the twenty-eighth report on the work of the Court on the situation in Darfur, pursuant to resolution 1593 (2005).

Côte d'Ivoire welcomes the gradual improvement of security conditions in Darfur, after several years of conflict. We also welcome the decrease in the level of violence against civilians, as mentioned in the report presented by the Prosecutor. The improvement in the situation is the result of the good collaboration between the Government of the Sudan and the African Union-United Nations Hybrid Operation in Darfur. My delegation therefore encourages the Sudanese Government to build on those gains and engage resolutely in finding solutions to the root causes of the crisis, in order to restore peace and stability to the region and prevent a recurrence of the conflict.

Despite the considerable progress made, my country notes with concern the allegations of sexual and gender-based violence against women, as well as those related to human rights violations in Darfur. Driven by its recent experience and firm commitment to respect for human rights, Côte d'Ivoire maintains that the fight against impunity provides important leverage for the national reconciliation process. We also believe that lasting peace in Darfur remains dependent upon holding accountable those guilty of serious crimes and human rights violations. In that regard, Côte d'Ivoire reiterates its appreciation to the International Criminal Court for its efforts to promote justice and combat impunity for crimes committed in Darfur. My delegation therefore calls on the Sudanese authorities to engage in constructive cooperation with the Office of the Prosecutor in order to address its concerns.

Despite the efforts of the Sudanese Government to restore State authority throughout Darfur, weak institutional capacity and the lack of financial resources have an adverse impact on rule-of-law, justice and

security institutions. Therefore, in accordance with resolution 1593 (2005) and other relevant Security Council resolutions, Côte d'Ivoire encourages the international community to support efforts to establish the rule of law and build the capacity of the Sudan's legal and judicial institutions. With the transition in Darfur from a peacekeeping operation to a peacebuilding mission now a priority, it is essential for the Government of the Sudan, the international community and the various United Nations entities to work closely and constructively to ensure a successful transition, in accordance with the recommendations of the Secretary-General in his report of 12 October (S/2018/912).

In conclusion, Côte d'Ivoire, a State party to the Rome Statute, commends the high quality of work carried out by the International Criminal Court and reaffirms its unwavering support for the Office of the Prosecutor in its efforts to combat impunity.

I now resume my functions as President of the Security Council.

I give the floor to the representative of the Sudan.

Mr. Mohamed (Sudan) (*spoke in Arabic*): I would like to congratulate you, Mr. President, on assuming the presidency of the Security Council this month.

As usual, the twenty-eighth report of the Prosecutor of the International Criminal Court (ICC) reveals nothing new. Like all previous ones, today's report did not find anything new to taint its seven pages except by referring to visits conducted by His Excellency the President of the Republic of the Sudan to various countries, as well as by using contradictory, incomplete and inconsistent information with regard to the situation in Darfur. The Council adopted two resolutions on the progressive implementation of the exit strategy pertaining to the African Union-United Nations Hybrid Operation in Darfur (UNAMID). The report of the Prosecutor testifies to what was said by certain permanent Council members, namely, that the ICC — which the Sudan has nothing to do with it, like any other State that is not party to the Rome Statute — has turned its mission into a mechanism to monitor and evaluate the situation in Darfur. For example, paragraph 13 of the report before the Council demonstrates that.

The Office of the Prosecutor has undoubtedly received intelligence from States regarding the visit of the President of the Republic of the Sudan to a number of states in Darfur two weeks ago, and the way he was greeted there as a peacemaker. The Court finds it difficult to reflect that fact, knowing that it is driving a wedge between peace and justice.

Given what the Council has heard, the proper response to the Court is first to work harder in order to entrench peace and transitional justice systems, and, secondly, for all States Members of the United Nations and non-members of the Court to ignore the ICC. The Council saw that a response by a friendly and peace-loving country like Jordan was met by attacks against it and attempts to denounce it. If Jordan had renounced the Court, it would not have been attacked by the Court, as it continues to be up until now, as the Council saw in the presentation by the Prosecutor.

Before 2007, the previous Prosecutor of the ICC, Mr. Luis Moreno Ocampo, believed that article 53 of the Court's statute made him committed to consider peace and amnesty initiatives, as well as mechanisms of transitional justice and reparations for the conflict in Darfur. But after March 2007 he completely turned against those conclusions and convictions. Why? Because after March 2007 he was subject to extortion by certain non-governmental organizations and States that had established the Court, such as the Coalition for the ICC. He totally gave in to the will of those groups and threw the weight of the Court behind pressing charges of war crimes and crimes against humanity, and even genocide, against the Government of the Sudan and its leaders.

As all Council members know, in March 2007 Mr. Ocampo was involved in the rape of an innocent female journalist in South Africa. He tried to cover that up by dismissing Mr. Christian Palme, who refused to remain silent about that flagrant act. We would like to remind the Council that the Prosecutor of the ICC, who presented her report today, was the Deputy Prosecutor of the ICC then. There are renewed accusations against the Court of corruption, and that was revealed by a media group called European Investigative Collaborations. The Prosecutor is trying to halt comments on the corruption of the Court by saying that she sees no added value of a further independent inquiry.

What is important in that regard is that since 2005 the ICC, through its judges and prosecutors, and because of its rampant corruption, has been trying to make up charges and accusations that appeal to the

States and organizations that founded and finance the Court. It is trying to mobilize them for its interests to cover up its evident failures and continuous corruption. That is what we what we are trying to clarify.

The Court achieved what it wanted through certain vulnerable African States, but the way will not be paved for it to totally attain that goal, which has nothing to do with justice and its natural and legal concept. While the Court does not have the courage ever to press charges against a soldier from any of those influential States, it has spared no effort to press charges against the President of an African State. All members of the Council are cognizant of the noble efforts, internally and at the African level, that the Sudan is making to consolidate peaceful settlements and enshrine the peaceful coexistence principle internally and regionally.

What is important to demonstrate to the Council is the institutional corruption within the ICC, which transcends individuals. That is our purpose: to expose the corruption of the ICC. It is a corruption that exceeds individuals, affecting the institution itself, and it is one that is underpinned by vote trading. Many examples of that can be seen at the level of politics and sports. However, we did not expect to see, even in our worst nightmares, corruption within a judicial institution, as is the case now within the ICC.

The Council heard here in the Chamber, on 5 December, His Excellency President Alassane Ouattara of Côte d'Ivoire (see S/PV.8413) say that, after 13 years of suffering, measures towards amnesty, healing wounds and national reconciliation led to the success in Côte d'Ivoire, something that the African continent and the whole world are proud of. That is exactly what we did in the Sudan concerning the N'Djamena ceasefire agreement of 2004, the peace accord signed in Nairobi in 2005, the peace agreement signed in Abuja in 2006 and the 2011 Doha Document for Peace in Darfur. The only obstacle to peace now is the Court, which pits parties to conflict against each other under the guise of justice.

The core of resolution 1593 (2005) is a peaceful settlement to the conflict in Darfur and the restoration of lasting peace. However, the resolution falls short on that objective. The twenty-eighth report of the Prosecutor is now before the Council. It is pointless to read those reports because they entrench the international divide, as can be seen in the statements of Council members, and they also fall short of the objective of achieving peace in that important region of the world.

We therefore wonder, as some members of the Council wonder too, about the significant progress that has been made in the Prosecutor's investigations in Darfur, according to the report of the ICC. Those institutional contradictions between the principles of peace and justice must be eliminated. We should underscore the established principles of international law regarding the immunity of States and their representatives. We should also, in a practical manner, emphasize the principle of equality among States, which is a well-established and independent legal principle.

We further reiterate that no entity, including the Security Council, can compel a State Member of the United Nations to be committed to any treaty that it has not joined pursuant to its free political will. We should listen to the voice of the African Union which, on behalf of all its members, unanimously and without exception rejected the insult addressed to our continent and its peoples, and the ruling on its leaders that they are fugitives.

The delegation of my country stresses once again the need to fight impunity and achieve justice through our own national justice and judicial institutions, which are capable and qualified, and through free international cooperation. We are constitutionally, legally, ethically and culturally committed to prosecuting perpetrators of crimes and violations under well-established international laws — including the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the four Geneva Conventions of 1949 and their two Protocols, and other human rights conventions — while committed to fight impunity. Article 3 of the Additional Protocol II to the Geneva Conventions provides for the following:

> "Nothing in this Protocol shall be invoked for the purpose of affecting the sovereignty of a State or the responsibility of the government, by all legitimate means, to maintain or re-establish law and order in the State or to defend the national unity and territorial integrity of the State."

(*spoke in English*)

The way the Prosecutor's statement and a few members of the Council referred to the President of the Sudan is of course unacceptable. We are not trying to point the finger at an individual, including the present

Prosecutor of the ICC. We are, rather, duty-bound to prove beyond a doubt the institutional corruption of the Court itself and, on the same scale, the underlying, purely political considerations that drive the Court and reduce it to a mere political tool and remnant of the defunct polarization of the world.

In this connection, we have to showcase the extent to which the Office of the Prosecutor and, in fact, the entire body of the Court are misused and abused. For example, on 17 October the German magazine Der Spiegel and other media outlets accused the Chief Prosecutor of lying with regard to her relationship with a former Chief Prosecutor, Mr. Luis Moreno Ocampo, after Ocampo left office in 2012. This is an account of facts; it is not rhetoric. A series of articles in Der Spiegel and other European media, partnered with European investigative collaborators, revealed that Luis Moreno Ocampo, the predecessor of the incumbent Prosecutor of the ICC, had owned offshore companies in Caribbean tax havens.

Lastly, it is evidently and naturally incompatible with the duties of the Prosecutor to take or to be seen taking sides in an investigation she is allegedly performing. Article 42 of the Rome Statute provides that "[t]he Prosecutor and the Deputy Prosecutors shall be persons of high moral character". Regrettably, in the wake of her report before the Security Council in June (see S/PV.8290), the Prosecutor of the ICC came forth with former rebels and abusers of refugee status here in New York and displayed, together with them, a t-shirt on which was written "Arrest Bashir". I have with me a photograph of that event. Would it ever occur in anybody's wildest imagination that any legal system in the world would ever commit such an affront and act of complete bias, prejudice and partiality? Again, I say that the Court is riddled with corruption from head to toe.

The meeting rose at 4.45 p.m.